In The

Supreme Court of the United States

United States of America, and;
State of California, and;
ex rel. Miro J. Satalich,
Petitioner(s),

v.

City of Los Angeles
Respondent.

On Petition For Writ Of Certiorari to the United States Court of Appeals for 9th Circuit

PETITION FOR WRIT OF CERTIORARI

Miro J. Satalich, Pro se
P.O. Box 93314
Phoenix, Arizona 85070-93314
(480) 283-0355

QUESTIONS PRESENTED

(I) As respects Title 31 U.S.C. §§ 3729 et seq. discovery in a qui tam action. Did the District Court Judge error, by making an impossible ruling requiring the Plaintiff to prove fraudulent funds paid out by the City, while in the same breath denying and barring Plaintiffs/Appellants discovery to public records/accounts of the City of Los Angeles containing Grant Funds paid to them by the Federal Government and State of California? Did the City obstruct justice?

(II) When the Defendant is being Court supervised for over (20) twenty years, by the same Appellate Judge, under a Consent Decree and/or ACD, and federal funds are used, when does Title 31 U.S.C. § 3729 et seq. , statute of limitations start to run? Does Title 31 U.S.C. § 3730(e)(3) apply?

(III) Did the District Court, and Ninth Circuit Three Judge Panel error by not acknowledging, a continuing offense of accrued Title 31 § 3730(h) violations of falsified documents and perjury to establish statute of limitations?

(IV) Did the District Court Judge, and Three Judge Panel error by denying the Plaintiff to file a "Supplemental Complaint?"

(V) Are Ninth Circuit procedures, that are unpublished, unapproved by Congress, and the U.S. Supreme Court, that treat just Pro se litigants differently, un Constitutional?

(VI) Since the City of Los Angeles has stonewalled and intentionally withheld subpoenaed public records, and upon motion, was not compelled by the Court to produce, and since the City of Los Angeles has been in perpetual default, is the Appellant entitled to "Default Judgment" by this Court?

PARTIES

United States of America, and; State of California, and;
ex rel. Miro J. Satalich

Petitioners,

v. CV-00-08882-GAF-(PLAx)

City of los Angeles

Respondent.

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Cases: **Page**

Other Authorities:

Petitioner Miro J. Satalich respectfully prays that this Court grant a writ of certiorari to review the judgment and opinion of the United States Court of Appeals for the Ninth Circuit entered on September 23, 2005, Docket No. 4-57163.

OPINIONS BELOW

The September 23, 2005 **Opinion** and **Mandate** issued on October 25, 2005 of the 9th Circuit Court of Appeals is set out on pages **1a and 3a** at **Appendix A and B**.

JURISDICTION

The decision of the 9th Circuit Court of Appeals was entered on September 23, 2005. The jurisdiction of the Court is therefore invoked pursuant to Title 28 U.S.C. § 1254.

STATUTES AND REGULATIONS INVOLVED

In accord with Title 28 U.S.C. §§ 1253, and 2101(e), and this action being a Title 31 U.S.C. § 3729 et seq., and § 3730(h) being a Congressional Act, involving alleged fraud of government grant funding, and employee harassment thereby falls squarely under U.S. Supreme Court Rule 11. Also, alleged violations of the Appellant's 1st, 5th, 7th and 14th Amendments to the U.S. Constitution; Sections 7 and 15, of the State of California Constitution; Title 28 U.S.C. §§ 47, 291(b); Cal. Labor Code 132(a); and City Ordinance #168708.

Title 28 U.S.C. § 1654 of differential and discriminatory treatment by the District and Ninth Circuit Appellate Court, for using unpublished, unapproved by Congress and U.S. Supreme Court procedures that are contrary to just pro se litigants, as well as contrary to the U.S. Constitution, Statute, Federal Rules of Civil Procedures, Federal Rules Criminal Procedures, and Federal Rules of Evidence.

STATEMENT OF THE CASE

Appellant was employed by the City of Los Angeles from March 30, 1987, to June 22, 2000, at the City of Los Angeles, Hyperion Wastewater Treatment Plant, 12000 Vista Del Mar, Playa Del Rey, California 90293.

The City of Los Angeles Hyperion Wastewater Treatment Plant (HTP), was a run down, neglected, undermanned, environmental disaster. In 1977, the City of Los Angeles (CLA) and State of California were sued by the United States of America, Environmental Protection Agency (EPA) and various private environmental groups, namely, Santa Monica based "Heal the Bay" due to discharging untreated sewage and wastewater into Santa Monica Bay and for lack of maintaining the large facility. The results of the suit were a Consent Decree Order, signed on **June 19, 1980** by then, **District Judge Harry Pregerson**, which led to an Amended Consent Decree (**ACD**), again signed **February 19, 1987** by **Appellate Judge Harry Pregerson** , who, although an **Appellate Justice**, was **supposedly** allowed to retain and overlook the case in it's entirety, as the administrator, until he closed it on **August 7, 2000**.

The estimated cost of updating HTP was 2.5 billion dollars. Monies came in the form of U.S. Super Funds and Grants from the United States of America, Environmental Protection Agency (80%), and the State of California (10%), and with The CLA contributing about ten percent (10%). Eighty percent (80%) of funding was provided by grants from the United States Department of Justice, Department of Interior, Environmental Protection Agency, Superfund. Ten Percent funding provided by the State of California. Ten percent matching funding by the City of Los Angeles, through public sewer tax. **Alleged training fraud** occurred on the first training contract to Metcalf & Eddy Services, $13,000,000.00.

Second Training contract to Metcalf & Eddy Services, $3,500,000.00. MCS contract to oversee Metcalf & Eddy, $130,000.00. per year. MCS Training Group contract for C-109 project, $2,800,000.00. Approximate contracted Training costs, totaled $20,000,000.00. All training contracts were allegedly done fraudulently. All monies were placed in a trust fund under the control of then elected city official, Rick Tuttle, City Controller, then disbursed by his office on approval of all training contractors by the Bureau of Sanitation via Hyperion HRDD managers.

On or about October 1990, the Appellant transferred to Hyperion's Human Resources Development Division (HRDD), Training Section, to be part of the Hyperion Plant training staff. Further, the Appellant alleges that after witnessing and detecting and reporting training fraud and waste to City government pertaining to the Federal Court Ordered Amended Consent Decree (ACD) Case #77-3047-HP), which happened prior to October 28, 1991, that started with a breach of confidentiality from a plant manager, he **was harassed**, which continued thereafter. Hyperion and HRDD management knowingly and intentionally harassed, threatened, intentionally falsified, and published false records pertaining to the Appellant's work records to take steps to fire him and discriminated against him in direct violation of: (a) State Labor Codes, (b) City Ordinance No. 168708, SEC 49.5.4.(A)(B)(C)(D), and (c) 31 U.S.C. § 3730(h), and, (d) violated Appellant's First, Fifth, Seventh and Fourteenth Amendments to the United States Constitution. (e) The Long Beach WC Appeals Board Clerk failed to forward Appellant's appeal to the State Appellate. The one year statute of limitations ran out and the WC Chief Judge said that was "too bad" that the Clerk made a mistake. The U.S. District Court Judge never got around to hearing that part of the complaint.

On My 10, 1995, due to job harassment for whistle-blowing activities, the Appellant became seriously ill and had to leave the work place and be placed under doctors care. From May 10, 1995, to June 22, 2000, the Appellant was denied Workers' Compensation benefits, as the City claimed they did not damage him. The Appellant contends, that while not at his work place from 1995 to 2000, evidence provided by the **Defendant** clearly established that the **Defendant published** false statements to the California Workers' Compensation Appeals Board, and to the California Department of Fair Employment and Housing to further punish the Plaintiff for refusing to commit illegal acts as a condition of employment. As a result of the forgoing, on June 22, 2000, with the knowledge that he had been repeatedly slandered and that his reputation and abilities had been severely tarnished by Hyperion management for his refusal to go along with, which he believed was an illegal program to defraud Hyperion employees of badly needed training and at the advice of the Plaintiff's treating physician (who stated that Plaintiff's health was in jeopardy as a result of the ongoing harassment and hostile work environment created by the Defendant), was constructively discharged by being forced to retire/resign.

The Appellant believes, that because of the language of Title 31 U.S.C. § 3730(e)(3) "**Certain actions barred**," and being overseen by Appellate Judge Harry Pregerson, he could not file an action because of being in conflict with the ACD, see footnote[1]. The Appellant believes this to mean, barring anyone from filing a Title 31 U.S.C. 3729 et seq., action, while

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[1] Title 31 U.S.C. § 3730(e)(3) "Certain actions barred" — "In no event may a person bring an action under subsection (b) which is based upon allegations or transactions which are the subject of a civil suite or an administrative civil money penalty proceeding in which the Government is already a party."

the United States was still the Plaintiff in CV-77-3047-HP, and the ACD. However, On March 19, 1999, the Appellant filed a Title 31 U.S.C. § 3730(h) Motion and Complaint of Intervention into CV-77-3047HP, butwas ignoredby Appellate Judge Harry Pregerson, and the City did not respond. The Appellant made numerous inquires with the Court Clerk and directly to Judge Pregerson, but, to no avail or response. The Appellant contacted the U.S. Department of Justice, whereas, they were investigating the Appellant's complaints, and as noted in the record, while they were still writing reports to the CV-77-3047HP Court. After consulting with the USDOJ and checking the case status with the Court Clerk, the Appellant on August 7, 2000, filed a full blown qui tam intervention into CV-77-3047HP. However, after being filed ... seven days later, Appellate Judge Pregerson closed CV-77-3047HP and backdated to the same day as filed by Appellant, August 7, 2000. On August 22, 2000, the Appellant filed a new action, case number CV-00-08882GAF(PLAx). The Appellant was later contacted by Judge Pregerson's Court Clerk, to the effect, that the first 31 U.S.C. § 3730(h) intervention was still pending, but apparently the documentation was lost and to re file original documents directly to him. The Appellant complied, and waited for over a year with no response. Because of the City and Court not responding to the motion, the Appellant filed for Default, and Default Judgement, only to be rejected by Appellate Judge Harry Pregerson, and told the case CV-77-3047HP was closed on August 7, 2000.

The Appellant has gone through well over four years of litigation with the major qui tam argument being whether a municipality was a person. On 6/09/2003, Judge Feess dismissed all causes. Due to ***Cook County v. United States ex rel. Chandler, 123 S. Ct. 1239 (2003) U.S. Supreme Court No. 01-1572***, CV-00-08882GAF was reinstated. Through stipulation, the City agreed to discovery. The City failed to

produce, and when finally did, withheld, with Court approval, critical public records containing Federal and State grant monies in the "Environmental Trust Fund" records.

REASON FOR GRANTING THE WRIT

The Appellant:
(1) Was denied access to public records containing federal grant funds to prove a § 3729 action; Records that should have been available even under the Freedom of Information Act. The Appellant believes he proved statute of limitation, however, the District and Appellate did not rule on the matter.

(2) Was denied filing a "Supplemental Complaint;"

(3) Was denied by the Court, the use of submitted evidence to prove § 3730(h) harassment, of accrued continued offense that occurred from 1991 to the year 2000;

(4) The Appellate and District Courts **failed to acknowledge** violations of Appellant's Constitutional Rights. Also;

(5) During the appeal process of Docket No. 04-57163, the Appellant happened across files on the 9th Circuit Court of Appeals website, that being, **discriminatory Court procedures towards just pro se Litigants**. Found, by chance, were **compelling**, **unavailable to the public**, **unapproved**, **unpublished Ninth Circuit procedures**, which are **contrary** to Federal Rules of Civil Procedures, Federal Rules Criminal Procedures, and Federal Rules of Evidence residing on the Ninth Circuit's website, proving differential treatment by the District and Appellate Courts towards just pro se litigants. The newly found evidence proved, that pro se litigants, under all circumstances, are being scrutinized differently than attorneys, to never prevail in federal court.